FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO.2252 OF 2006

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr.Rakesh Singh h/for Ajay Tripathi for the applicants.

Ms.S.V.Gajare APP for the State.

Coram : R.S.Mohite,J

Date : 22.6.2006.

PC

1. This is an application for grant of anticipatory bail. The applicants are shown as accused in C.R.No.139/2006 registered by the Mahim police station for alleged offences under Sections 498-A, 323,406, 506(2) of IPC. The applicants are the parents-in-law of the Complainant Milan @ Sheetal Mohan Naykare. On perusal of the FIR it is clear that there are allegations of ill-treatment against the present applicants. There is also allegation of

making of demand of Rs.50,000/-. One more allegation made in the FIR is that the ornaments of the Complainant were handed over to the husband and they have not been given back. Police have recorded the supplimentary statement of the Complainant in which details of the ornaments and articles were mentioned. Gold ornaments are valued of Rs.1,40,000/- and total value of gold ornaments and articles is Rs.3,00,000/-. The husband was arrested and released on bail. The amount of jewellery and other goods recovered are Rs.1,54,850/-. Substantial recoveries are still required to be made. Advocate for the applicants relied upon various judgments. The first judgment relied upon by him is in the case of **Jagannath V.State of Maharashtra** reported in 1981 CRI.L.J.1808 in which this Court observed that anticipatory bail should not be refused merely because prosecution claim that

they want the accused in police custody for the purpose of investigation. The genuineness of the alleged need for police custody has to be examined and it must be balanced against the duty of Courts to uphold the dignity of every man and to vigilantly guard his right to liberty without jeopardizing the State objective of maintenance of law and order. He also relied upon the judgment of Rajasthan High Court in the case of **Sadya V. State of Rajasthan & Ors.** in S.B.Cr.Misc.IInd Bail Application No.1890/1988 decided on 27.7.1988 in which the Rajasthan High Court held that the co-accused having enlarged on bail, the petitioner similarly situated was entitled to anticipatory bail. Last judgment relied upon is the judgment of the Delhi High Court in the case of **Anand Roy Vs. State of Delhi** reported in 1986(1) CRIMES 153 , wherein it has been observed that mere fact

that recovery is to be made from the accused is no ground for refusing anticipatory bail. The question as to whether anticipatory bail is required to be given has to be decided on the facts of each case. Broadly speaking the police must be given free hand for investigation. In the present case there are allegations that ornaments have been taken away and concealed. In my view the allegations will have to be looked into by the police to find out if indeed ornaments are concealed and for this custodial interrogation is required. Husband has given some ornaments. That does not forclose the possibility of ornaments and articles being kept back. In the circumstances, not a fit case for grant of anticipatory bail. Rejected.

(R.S.Mohite,J)